

PROBATE

1

Transfer of Property When a Person has Died

Small Estate
Affidavit for Transfer

© Superior Court of Arizona in Maricopa County

April 13, 2001

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PBSE1c - 5280



SELF SERVICE CENTER

INFORMAL PROBATE

TRANSFER OF SMALL ESTATE BY AFFIDAVIT

How to assemble these documents

This packet contains general information, court forms and instructions to file for the Transfer of a Small Estate by Affidavit. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
1	PBSE1t	Table of forms/instructions in this packet	1
2	PBSE1k	Checklist for using this packet	1
3	PBSE10p	Help on deciding whether to use Affidavit instead of Probate	2
4	PBSE11f	<i>“Affidavit for Collection of All Personal Property”</i>	2
5	PBSE12f	<i>“Affidavit for Transfer of Title to Real Property”</i>	3

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SELF SERVICE CENTER
FORMS AND INSTRUCTIONS

TRANSFER OF PROPERTY WHEN PERSON DIED
SMALL ESTATE
AFFIDAVITS FOR TRANSFER

Use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You are related to a person who died or you have a legal interest in the person's property, AND
- ✓ The person had a will or did not have a will, AND
- ✓ The assessed value of the real property in the decedent's estate (person who died) located in Arizona, less liens and encumbrances against the real property as of the date of death, is less than \$50,000.00, AND
- ✓ The value of the personal property in the decedent's estate (person who died) wherever located, less liens and encumbrances, does not exceed \$50,000.00, AND
- ✓ You want to transfer the property without going through a court probate case.

READ ME: It is very important for you to know that when you sign a court document, you may be helping or hurting your court case. Before you sign any court document, or get involved with a court case, it is important that you see a lawyer to make sure you are doing the right thing. The Self-Service Center has a list of lawyers who can give you legal advice and can help you on a task-by-task basis for a fee. If you want to know more about our list of lawyers and our list of mediators, ask the Self-Service Center staff.

SELF SERVICE CENTER

AFFIDAVIT INSTEAD OF PROBATE -- SMALL ESTATE

A. WHEN CAN YOU USE AN AFFIDAVIT?

You might not have to go to probate court at all, if the estate of the person who died is small enough. Generally, you can file an affidavit to claim personal property without going to probate court if:

1. **RIGHT TO SUBMIT AFFIDAVIT.** You have **legal standing** or the right to submit an affidavit to persons who have the property of the person who died, or owe money to the person who died, if:
 - A. You are named in a Will to receive the property of the person who died, and you can prove it;
 - B. The person who died had no will, but you are entitled to the property under law because of one of the following:
 - You are the spouse of the person who died;
 - You are a living child of the person who died, and there is no living spouse;
 - You are the living parent of the person who died, and there are no living children or spouse;
 - You are a living brother or sister of the person who died, and there are no living children, spouse, or parents.
2. **VALUE OF ESTATE.** The value of all of the personal property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed \$50,000.00, and the assessed value of the real property in the decedent's estate located in Arizona, less liens and encumbrances against the real property as of the date of the decedent's death, **does not exceed \$50,000.00.**
3. **ENTITLEMENT TO THE PROPERTY:**

PERSONAL PROPERTY: You are the claiming successor to the personal property and are entitled to payment or delivery of the property.

REAL PROPERTY: You are entitled to the real property by reason of the allowance in lieu of homestead (\$18,000), exempt property (\$7,000) or family allowance (\$12,000) by intestate succession as the sole heir or heirs, or by devise under a valid last will of the decedent. This means any of the following:

 - You are **the living spouse** of the person who died or there is no living spouse and you are the living dependent child, OR
 - The person died without a will and you are the sole heir OR,
 - The person died without a will and the people with equal or greater right than you have to the property have all assigned their entire interests in the estate to you, which is proven by the copy of the documents they signed to this effect that you can attach to the affidavit for personal property, OR,
 - The person died and left a valid will giving the entire estate to you, OR,

- The person died and left a valid will and the people with equal or greater right than you have to the property have all assigned their entire interests in the estate to you, which is proven by the copy of the documents they signed to this effect that you can attach to the affidavit.

B. WHAT TO DO AFTER YOU HAVE COMPLETED THE AFFIDAVIT:

1. **To collect personal property**, take the affidavit to the person who has the property or owes the debt. If you are claiming title to a motor vehicle, pay the fee and the motor vehicle division will transfer title to you.
2. **To claim an interest in real property**, take the following documents to the Probate Registrar at either location of the Superior Court:

PHOENIX:

Old Courthouse, 1st Floor
125 West Washington
Phoenix, AZ 85003-2205

MESA:

222 East Javelina Drive
1st Floor
Mesa, AZ 85210-6201

- Original Affidavit. If the estate was previously opened, write on the affidavit the old probate case number.
- Original Will if one exists or a certified copy of the Will from the court of record.
- Certified death certificate.
- Copy of the closing statement if there was a probate in another county other than Maricopa County.

File the original affidavit and the original will. If the Probate Registrar determines that your affidavit is complete, the Probate Registrar will issue a certified copy of the affidavit. You must then record the certified copy with the county recorder where the real property is located.

AFFIDAVIT FOR COLLECTION OF ALL PERSONAL PROPERTY

STATE OF ARIZONA)
MARICOPA COUNTY)ss.

I am signing this affidavit, being first duly sworn, and on my oath I state as follows:

1. INFORMATION ABOUT PERSON WHO DIED:

Name of person who died: _____

Date of death: _____

Place of death: Maricopa County, Arizona

2. 30-DAY REQUIREMENT: More than thirty (30) days have gone by since the person died.

3. RELATIONSHIP: My relationship to the person who died is: (explain)

4. VALUE OF PERSONAL PROPERTY. The value of all the personal property in the deceased person's estate, wherever located, minus the amount of liens and encumbrances on the property, is not greater than \$50,000.00.

5. PERSONAL REPRESENTATIVE. To the best of my knowledge, no one has filed an Application or Petition for Appointment of a Personal Representative and no Application or Petition has been granted in any state OR if an application has been granted the personal representative has been discharged or more than one year has elapsed since a closing statement has been filed and the amount does not exceed \$50,000.

6. ENTITLEMENT. I am the claiming successor to the personal property and I am entitled to payment or delivery of the property because I am. (Check all boxes that apply.)

- ☐ I am named in the Will of the person who died, a copy of which is attached to this Affidavit.
- ☐ The person who died had no Will, but I am entitled to the property under law because (check ONE box)
 - ☐ I am the spouse of the person who died;
 - ☐ I am a living child of the person who died, and there is no living spouse;
 - ☐ I am the living parent of the person who died, and there are no living children or spouse;
 - ☐ I am a living brother or sister of the person who died, and there are no living children, spouse, or parents.
 - ☐ The person died without a will and I am the sole heir.
- ☐ The person died without a will and the people with equal or greater right than I have to the property, who are listed above, have all assigned their entire interests in the estate to me, which is proven by the copy of the documents they signed to this effect that I am attaching to this affidavit.

- ☐ The person died and left a valid Will and the people with equal or greater right than I have to the property, who are listed above, have all assigned their entire interests in the estate to me, which is proven by the copy of the documents they signed to this effect that I am attaching to this affidavit.

- 7. DESCRIPTION OF PROPERTY.** The person who died owned the following personal property located in Arizona. (List all property; use extra paper if necessary)

Description	Value	Location, or Who Has Property Now
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____

TOTAL VALUE: \$ _____

- 8. RECEIVABLES:** The person who died was entitled to collect on the following debts from persons located in Arizona. (List all; use extra paper if necessary)

Description	Amount owed	Name of Who Owes the Debt
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____

TOTAL AMOUNT OWED: \$ _____

- 9.** This affidavit is made under Arizona Law, Sec. 14-3971(B), Arizona Revised Statutes, for the purpose of making claim to property of the person who died.

Signature of Person Making the Affidavit

SUBSCRIBED AND SWORN TO before me this date: _____, by _____

My Commission Expires:

Notary Public

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Representing ☐ Self (Without a Lawyer) or ☐ Attorney for _____
State Bar Number (if applicable): _____

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

In the Matter of the Estate of _____

Case Number: _____

**AFFIDAVIT FOR TRANSFER OF
REAL PROPERTY TITLE**

☐ an Adult ☐ a Minor, deceased

STATE OF ARIZONA)
COUNTY OF MARICOPA)ss.

I am signing this affidavit, being first duly sworn, and on my oath I state as follows:

1. INFORMATION ABOUT PERSON WHO DIED

(Name of person who died) _____ died on (date) _____.

2. PLACE OF DEATH. (Check one box)

- ☐ At the time of death, decedent was living in Maricopa County in Arizona, **OR**
☐ At the time of death, decedent was not living in Arizona but was living at (city and state) _____, and owned real property located in Maricopa County in Arizona.

3. RELATIONSHIP. This is my relationship to the person who died: (explain) _____

4. DESCRIPTION OF REAL PROPERTY. The legal description of the real property located in Maricopa County Arizona is: _____

5. INTEREST OF PERSON WHO DIED IN PROPERTY. The interest of the person who died in the real property is (list how person who died had title to the property or other interest in the property). _____

6. VALUE OF ESTATE. The assessed value in the estate of the person who died of all real property located in this state, including any debt secured by a lien on real property, less liens and encumbrances against the real property as of the date of decedent's death, does not exceed \$50,000.00.

7. **SIX MONTH REQUIREMENT.** Six months have elapsed since the death of the person who died as shown in a certified copy of the death certificate attached to this affidavit.
8. **PERSONAL REPRESENTATIVE.** An application or petition for appointment of a personal representative is not pending or has not been granted in any jurisdiction OR an application has been granted but the personal representative has been discharged or more than one year has elapsed since a closing statement has been filed and the \$50,000 limit on the value of the property has not been exceeded.
9. **FUNERAL EXPENSES.** Funeral expenses, expenses of last illness, and all unsecured debts of the person who dies have been paid.
10. **REASON WHY I AM ENTITLED TO THE PROPERTY.** That the persons signing the affidavit are entitled to the real property because (check the boxes that apply):
- ☐ I am decedent's spouse and I am claiming the allowance in lieu of homestead (\$18,000) exempt property (\$7,000) and family allowance (\$12,000). (A.R.S. 14-2401 through 14-2405)
 - ☐ There is no surviving spouse of the decedent and I am the living dependent or minor child of the person who died. I am claiming the allowance in lieu of homestead (\$18,000) exempt property (\$7,000), and family allowance (reasonable allowance for maintenance of family during administration of estate, generally up to one year). (A.R.S. 14-2401-03). All other dependent children of my parent with equal or greater right than I have to the property, who are listed above, have all assigned their entire interests in the estate to me, which is proven by the copy of the document they signed to this effect that I am attaching to this affidavit or they have signed this affidavit indicating their interest in the property.
 - ☐ I am named in the will dated _____ of the person who died, the original of which is attached to this affidavit, or a certified copy of the Will which has been probated as follows (name court and case number) _____.
 - ☐ The person who died had no will, but I am entitled to the property under law because (check one box)
 - ☐ I am the spouse of the person who died;
 - ☐ I am a living child of the person who died, and there is no living spouse;
 - ☐ I am the living parent of the person who died, and there are no living children or spouse;
 - ☐ I am a living brother or sister of the person who died, and there are no living children, spouse, or parents.
 - ☐ The person died without a will and I am the sole heir.
 - ☐ The person died without a will and the people with equal or greater right than I have to the property, have all assigned their entire interests in the estate to me, which is proven by the copy of the documents they signed to this effect that I am attaching to this affidavit or have signed this affidavit indicating their interest in the property.
 - ☐ The person died and left a valid will giving the entire estate to me.
 - ☐ The person died and left a valid will and the people with equal or greater right than I have to the property, who are listed above, have all assigned their entire interests in the estate to me, which is proven by the copy of the documents they signed to this effect that I am attaching to this affidavit or have signed this affidavit indicating their interest in the property.
11. **OTHER PERSONS.** No other person has a right to the interest of the decedent in the described property.
12. **TAXES.** No federal or Arizona estate tax is due on the person who died estate.

13. TRUE STATEMENTS. All statements in this affidavit are true and material. I acknowledge that any false statement may subject me to penalties relating to perjury.

Signature of Affidavit

SUBSCRIBED AND SWORN TO before me this _____ day of _____, _____, by

_____.

Notary Public

My commission expires: _____